

FILED: December 17, 2012

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-1436 (L)
(1:07-cv-00739-JAB-WWD)

DAVID F. EVANS; COLLIN FINNERTY; READE SELIGMANN

Plaintiffs - Appellees

v.

STEVEN W. CHALMERS; BEVERLY COUNCIL; RONALD HODGE; JEFF
LAMB; MICHAEL RIPBERGER; LEE RUSS; PATRICK BAKER

Defendants - Appellants

and

CITY OF DURHAM, NORTH CAROLINA; MARK GOTTLIEB; BENJAMIN
HIMAN; DAVID ADDISON; MICHAEL NIFONG; LINWOOD WILSON;
STEPHEN MIHAICH; DNA SECURITY, INCORPORATED; RICHARD CLARK;
BRIAN MEEHAN

Defendants

No. 11-1438
(1:07-cv-00739-JAB-WWD)

DAVID F. EVANS; COLLIN FINNERTY; READE SELIGMANN

Plaintiffs - Appellees

v.

CITY OF DURHAM, NORTH CAROLINA; MARK GOTTLIEB; BENJAMIN
HIMAN; DAVID ADDISON

Defendants - Appellants

and

MICHAEL NIFONG; LINWOOD WILSON; STEVEN W. CHALMERS; BEVERLY
COUNCIL; RONALD HODGE; JEFF LAMB; STEPHEN MIHAICH; MICHAEL
RIPBERGER; LEE RUSS; DNA SECURITY, INCORPORATED; RICHARD
CLARK; BRIAN MEEHAN; PATRICK BAKER

Defendants

No. 11-1453
(1:08-cv-00119-JAB-WWD)

EDWARD CARRINGTON; CASEY J. CARROLL; MICHAEL P. CATALINO;
GALE CATALINO; THOMAS V. CLUTE; KEVIN COLEMAN; JOSHUA R.
COVELESKI; EDWARD J. CROTTY; EDWARD S. DOUGLAS; KYLE DOWD;
PATRICIA DOWD; DANIEL FLANNERY; RICHARD GIBBS FOGARTY;
ZACHARY GREER; IRENE GREER; ERIK S. HENKELMAN; STEVEN W.
HENKELMAN; JOHN E. JENNISON; BEN KOESTERER; MARK KOESTERER;
JOYCE KOESTERER; FRED KROM; PETER J. LAMADE; ADAM LANGLEY;
CHRISTOPHER LOFTUS; DANIEL LOFTUS; BARBARA LOFTUS; ANTHONY
MCDEVITT; GLENN NICK; NICHOLAS O'HARA; LYNDA O'HARA; DANIEL
OPPEDISANO; SAM PAYTON; JOHN BRADLEY ROSS; KENNETH SAUER, III;
STEVE SCHOEFFEL; ROBERT SCHROEDER; DEVON SHERWOOD; DANIEL
THEODORIDIS; BRET THOMPSON; CHRISTOPHER TKAC; TRACY TKAC;
JOHN WALSH, JR.; MICHAEL WARD; ROBERT WELLINGTON, IV; WILLIAM
WOLCOTT; MICHAEL YOUNG

Plaintiffs - Appellees

v.

PATRICK BAKER; STEVEN CHALMERS; RONALD HODGE; LEE RUSS;
BEVERLY COUNCIL; JEFF LAMB; MICHAEL RIPBERGER

Defendants - Appellants

and

DUKE UNIVERSITY; DUKE UNIVERSITY HEALTH SYSTEMS,
INCORPORATED; RICHARD BRODHEAD; PETER LANGE; LARRY MONETA;
JOHN BURNES; TALLMAN TRASK; SUZANNE WASIOLEK; MATTHEW
DRUMMOND; AARON GRAVES; ROBERT DEAN; TARA LEVICY; THERESA
ARICO; J. WESLEY COVINGTON; KATE HENDRICKS; VICTOR DZAU; CITY
OF DURHAM; LINWOOD WILSON; MARK GOTTLIEB; BENJAMIN HIMAN;
STEPHEN MIHAICH; DAVID ADDISON; MARSHA COVINGTON
COVINGTON, Executrix of the Estate of John Wesley Covington

Defendants

No. 11-1458
(1:07-cv-00953-JAB-WWD)

RYAN MCFADYEN; MATTHEW WILSON; BRECK ARCHER

Plaintiffs - Appellees

v.

PATRICK BAKER; STEVEN CHALMERS; RONALD HODGE; LEE RUSS;
BEVERLY COUNCIL; JEFF LAMB; MICHAEL RIPBERGER

Defendants - Appellants

and

DUKE UNIVERSITY; DUKE UNIVERSITY POLICE DEPARTMENT; AARON

GRAVES; ROBERT DEAN; LEILA HUMPHRIES; PHYLLIS COOPER; WILLIAM F. GARBER, III; JAMES SCHWAB; JOSEPH FLEMING; JEFFREY O. BEST; GARY N. SMITH; GREG STOTSENBERG; ROBERT K. STEEL; RICHARD H. BRODHEAD, Ph. D.; PETER LANGE, Ph. D.; TALLMAN TRASK, III, Ph. D.; JOHN BURNES; LARRY MONETA, Ed. D.; DUKE UNIVERSITY HEALTH SYSTEMS, INCORPORATED; PRIVATE DIAGNOSTIC CLINIC, PLLC; JULIE MANLY, MD; THERESA ARICO, R. N.; TARA LEVICY, R. N.; THE CITY OF DURHAM, NORTH CAROLINA; MICHAEL NIFONG; STEPHEN MIHAICH; EDWARD SARVIS; LAIRD EVANS; JAMES T. SOUKUP; KAMMIE MICHAEL; DAVID ADDISON; MARK D. GOTTLIEB; BENJAMIN W. HIMAN; LINWOOD WILSON; RICHARD D. CLAYTON; DNA SECURITY, INCORPORATED; RICHARD CLARK; BRIAN MEEHAN, Ph. D.; VICTOR J. DZAU, MD; ALLISON HALTON; KEMEL DAWKINS; SUZANNE WASIOLEK; STEPHEN BRYAN; MATTHEW DRUMMOND; DUKE POLICE DEFENDANTS

Defendants

No. 11-1460
(1:07-cv-00953-JAB-WWD)

RYAN MCFADYEN; MATTHEW WILSON; BRECK ARCHER

Plaintiffs - Appellees

v.

THE CITY OF DURHAM, NORTH CAROLINA; DAVID ADDISON; MARK GOTTLIEB; BENJAMIN HIMAN

Defendants - Appellants

and

DUKE UNIVERSITY; DUKE UNIVERSITY POLICE DEPARTMENT; AARON GRAVES; ROBERT DEAN; LEILA HUMPHRIES; PHYLLIS COOPER; WILLIAM F. GARBER, II; JAMES SCHWAB; JOSEPH FLEMING; JEFFREY O. BEST; GARY N. SMITH; GREG STOTSENBERG; ROBERT K. STEEL; RICHARD H. BRODHEAD, Ph. D.; PETER LANGE, Ph. D.; TALLMAN TRASK, III, Ph. D.;

JOHN BURNES; LARRY MONETA, Ed. D.; DUKE UNIVERSITY HEALTH SYSTEMS, INCORPORATED; PRIVATE DIAGNOSTIC CLINIC, PLLC; JULIE MANLY, MD; THERESA ARICO, R. N.; TARA LEVICY, R. N.; MICHAEL NIFONG; STEPHEN MIHAICH; EDWARD SARVIS; LAIRD EVANS; JAMES T. SOUKUP; KAMMIE MICHAEL; LINWOOD WILSON; RICHARD D. CLAYTON; DNA SECURITY, INCORPORATED; RICHARD CLARK; BRIAN MEEHAN, Ph. D.; VICTOR J. DZAU, MD; ALLISON HALTON; KEMEL DAWKINS; SUZANNE WASIOLEK; STEPHEN BRYAN; MATTHEW DRUMMOND; DUKE POLICE DEFENDANTS; PATRICK BAKER; STEVEN W. CHALMERS; RONALD HODGE; LEE RUSS; BEVERLY COUNCIL; JEFF LAMB; MICHAEL RIPBERGER

Defendants

No. 11-1465
(1:08-cv-00119-JAB-WWD)

EDWARD CARRINGTON; CASEY J. CARROLL; MICHAEL P. CATALINO; GALE CATALINO; THOMAS V. CLUTE; KEVIN COLEMAN; JOSHUA R. COVELESKI; EDWARD J. CROTTY; EDWARD S. DOUGLAS; KYLE DOWD; PATRICIA DOWD; DANIEL FLANNERY; RICHARD GIBBS FOGARTY; ZACHARY GREER; IRENE GREER; ERIK S. HENKELMAN; STEVEN W. HENKELMAN; JOHN E. JENNISON; BEN KOESTERER; MARK KOESTERER; JOYCE KOESTERER; FRED KROM; PETER J. LAMADE; ADAM LANGLEY; CHRISTOPHER LOFTUS; DANIEL LOFTUS; BARBARA LOFTUS; ANTHONY MCDEVITT; GLENN NICK; NICHOLAS O'HARA; LYNDA O'HARA; DANIEL OPPEDISANO; SAM PAYTON; JOHN BRADLEY ROSS; KENNETH SAUER, III; STEVE SCHOEFFEL; ROBERT SCHROEDER; DEVON SHERWOOD; DANIEL THEODORIDIS; BRET THOMPSON; CHRISTOPHER TKAC; TRACY TKAC; JOHN WALSH, JR.; MICHAEL WARD; ROBERT WELLINGTON, IV; WILLIAM WOLCOTT; MICHAEL YOUNG

Plaintiffs - Appellees

v.

CITY OF DURHAM; MARK GOTTLIEB; BENJAMIN HIMAN; DAVID

ADDISON

Defendants - Appellants

and

PATRICK BAKER; STEVEN CHALMERS; RONALD HODGE; LEE RUSS;
BEVERLY COUNCIL; JEFF LAMB; MICHAEL RIPBERGER; DUKE
UNIVERSITY; DUKE UNIVERSITY HEALTH SYSTEMS, INCORPORATED;
RICHARD BRODHEAD; PETER LANGE; LARRY MONETA; JOHN BURNES;
TALLMAN TRASK; SUZANNE WASIOLEK; MATTHEW DRUMMOND;
AARON GRAVES; ROBERT DEAN; TARA LEVICY; THERESA ARICO; J.
WESLEY COVINGTON; KATE HENDRICKS; VICTOR J. DZAU; LINWOOD
WILSON; STEPHEN MIHAICH; MARSHA SAUNDERS COVINGTON, Executrix
of the Estate of John Wesley Covington

Defendants

J U D G M E N T

In accordance with the decision of this court, judgment is entered affirming in part, dismissing in part, reversing in part and remanding in these consolidated appeals.

In No. 11-1436 (1:07-cv-00739-JAB-WWD), the judgment of the district court is REVERSED on all issues appealed (Counts 1, 2, 3, 4, and 6 below).

In No. 11-1438 (1:07-cv-00739-JAB-WWD), the judgment of the district court is AFFIRMED as to Count 13 below against Defendants Gottlieb and Himan. The judgment is REVERSED as to Count 13 below against Defendant Addison. The judgment is REVERSED as to Counts 1, 2, 3, 4, 5, and 14 below against all defendants. The judgment is REVERSED as to Counts 13, 16, and 17 below against the City of

Durham. The City's appeal as to Count 23 below is DISMISSED.

In No. 11-1453 (1:08-cv-00119-JAB-WWD), the judgment of the district court is REVERSED on all issues appealed (Counts 21, 25, and 27 below).

In No. 11-1465 (1:08-cv-00119-JAB-WWD), the judgment of the district court is REVERSED as to Counts 21, 23, and 25 below against all defendants. The judgment is REVERSED as to Counts 26, 30, and 31 below against the City of Durham. The City's appeal as to Count 32 below is DISMISSED.

In No. 11-1458 (1:07-cv-00953-JAB-WWD), the judgment of the district court is REVERSED on all issues appealed (Counts 1, 2, 5, 13, and 18 below).

In No. 11-1460 (1:07-cv-00953-JAB-WWD), the judgment of the district court is REVERSED as to Counts 1, 2, 5, and 18 against all defendants. The judgment is REVERSED as to Counts 12, 14, 25, and 26 below against the City of Durham. The City's appeal as to Count 41 below is DISMISSED.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK